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TREATIES AND OTHER INTERNATIONAL ACTS SERIES 9682

1753

DOUBLE TAXATION

Taxes on Income and Capital Gains

Convention, Exchange of
Notes and Protocols
Between the
UNITED STATES OF AMERICA
and the UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND

Convention signed at London December 31, 1975,

And Amending Agreement
Effected by Exchange of Notes
Signed at London April 13, 1976

And Amending Protocols
Signed at London August 26, 1976,
March 31, 1977 and March 15, 1979

NOTE BY THE DEPARTMENT OF STATE

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UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Double Taxation: Taxes on Income and Capital Gains

Convention signed at London December 31, 1975;
And amending agreement
Effected by exchange of notes
Signed at London April 13, 1976;
And amending protocols
Signed at London August 26, 1976, March 31, 1977 and March 15, 1979;
Ratification advised by the Senate of the United States of America, subject to a reservation, June 27, 1978, except for the third protocol which was ratified July 9, 1979;
Ratified by the President of the United States of America, subject to said reservation, August 1, 1978, except for the third protocol which was ratified August 24, 1979;
Ratified by the United Kingdom of Great Britain and Northern Ireland March 10, 1980;
Ratifications exchanged at Washington March 25, 1980;
Proclaimed by the President of the United States of America April 9, 1980;
Entered into force April 25, 1980.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains was signed at London on December 31, 1975, and an exchange of notes was signed at London on April 13, 1976, modifying certain provisions of the Convention, and three Protocols were signed

at London on August 26, 1976, March 31, 1977 and March 15, 1979, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of June 27, 1978, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention, exchange of notes, and two Protocols, subject to the reservation that the provisions of paragraph (4) of Article 9 of the Convention, as amended by the notes exchanged on April 13, 1976, shall not apply to any political subdivision or local authority of the United States;

The Senate of the United States of America by its resolution of July 9, 1979, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Third Protocol;

The Convention, exchange of notes, and two Protocols were ratified, subject to the aforementioned reservation, by the President of the United States of America on August 1, 1978, in pursuance of the advice and consent of the Senate;

The Third Protocol was ratified by the President of the United States of America on August 24, 1979, in pursuance of the advice and consent of the Senate;

The Convention, exchange of notes, and three Protocols were ratified on the part of the United Kingdom of Great Britain and Northern Ireland on March 10, 1980;

It is provided in Article 28 of the Convention that the Convention shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged;

The instruments of ratification of the Convention were exchanged at Washington on March 25, 1980, and accordingly the Convention, exchange of notes, and three Protocols, enter into force on April 25, 1980;

NOW, THEREFORE, I, Jimmy Carter, President of the United States of America, proclaim and make public the Convention, exchange of notes, and the three Protocols, to the end that they shall be observed and fulfilled with good faith on and after April 25, 1980, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this ninth day of April in the year of our Lord one thousand nine hundred eighty and of the
[SEAL] Independence of the United States of America the two hundred fourth.

JIMMY CARTER

By the President:
CYRUS VANCE
Secretary of State

TIAS 9682

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

Have agreed as follows:

ARTICLE 1

Personal Scope

(1) Except as specifically provided herein, this Convention is applicable to persons who are residents of one or both of the Contracting States.

(2) A corporation which is both a resident of the United Kingdom within the meaning of paragraph (1) (*a*) (ii) of Article 4 (Fiscal Residence), and a resident of the United States within the meaning of paragraph (1) (*b*) (ii) of such Article 4 shall be considered to be outside the scope of this Convention except for the purposes of Articles 24 (Non-discrimination) and 26 (Exchange of Information and Administrative Assistance).

(3) Notwithstanding any provision of this Convention except paragraph (4) of this Article, a Contracting State may tax its residents (as determined under Article 4 (Fiscal Residence)) and its nationals as if this Convention had not come into effect.

(4) Nothing in paragraph (3) of this Article shall affect the application by a Contracting State of:

(*a*) Article 9 (Associated Enterprises), Articles 23 (Elimination of Double Taxation), 24 (Non-discrimination), and 25 (Mutual Agreement Procedure); and

(*b*) Articles 19 (Government Service), 20 (Teachers), 21 (Students and Trainees) and 27 (Effect of Convention on Diplomatic and Consular Officials and Domestic Laws), with respect to individuals who are neither nationals of, nor have immigrant status in, that State.

ARTICLE 2

Taxes Covered

(1) This Convention shall apply to taxes on income imposed by each Contracting State and as hereinafter provided to taxes imposed by its political subdivisions or local authorities.

(2) The existing taxes to which this Convention shall apply are:

(*a*) in the case of the United States, the Federal income taxes imposed by the Internal Revenue Code [1] and the tax on insurance premiums paid to foreign insurers; but (except as provided in paragraph (6) of Article 10 (Dividends)) excluding the accumulated earnings tax and the personal holding company tax. The foregoing taxes covered are hereinafter referred to as "United States tax";

(*b*) in the case of the United Kingdom, the income tax, the capital gains tax, the corporation tax and the petroleum revenue tax. The foregoing taxes covered are hereinafter referred to as "United Kingdom tax"; and

(*c*) for the purposes of paragraph (4) of Article 9 (Associated Enterprises), taxes imposed on income by political subdivisions or local authorities of a Contracting State.

(3) This Convention shall also apply to any identical or substantially similar taxes which are imposed by a Contracting State or its political subdivisions or local authorities after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws.

(4) For the purpose of Article 24 (Non-discrimination), this Convention shall also apply to taxes of every kind and description imposed by each Contracting State, or by its political subdivisions or local authorities.

ARTICLE 3

General Definitions

(1) In this Convention, unless the context otherwise requires:

(*a*) the term "corporation" means a United States corporation, a United Kingdom corporation, or any body corporate or other entity of a third State which is treated as a body corporate for tax purposes by both Contracting States;

(*b*) (i) the term "United States corporation" means a corporation (or any unincorporated entity treated as a corporation for United States tax purposes) which is created or organized under the laws of the United States or any state thereof or the District of Columbia; and

(ii) the term "United Kingdom corporation" means any body corporate or unincorporated association created or organized under the laws of the United Kingdom, but does not include a partnership, a local authority, or a local authority association;

(*c*) the term "person" includes an individual, a corporation, a partnership, an estate, a trust and any other body of persons;

(*d*) the term "enterprise of a Contracting State" means an industrial or commercial undertaking carried on by a resident of a Contracting State;

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[1] 68A Stat. 3; 26 U.S.C. §§ 1–8023.

(*e*) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(*f*) the term "competent authority" means:

(i) in the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorized representative;

(*g*) (i) the term "United States" means the United States of America; and

(ii) when used in a geographical sense, the States thereof and the District of Columbia.

Such term also includes:

(*aa*) the territorial sea thereof, and

(*bb*) the seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which the United States exercises sovereign rights, in accordance with international law, for the purpose of exploration for and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which the Convention is being applied is connected with such exploration or exploitation;

(*h*) (i) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the seabed and subsoil and their natural resources may be exercised;

(*i*) the term "Contracting State" means the United States or the United Kingdom, as the context requires;

(*j*) the term "nationals" means:

(i) in relation to the United Kingdom, all citizens of the United Kingdom and Colonies, British subjects under Sections 2, 13(1) or 16 of the British Nationality Act 1948, and British subjects by virtue of Section 1 of the British Nationality Act 1965, provided they are patrial within the meaning of the Immigration Act 1971, so far as these provisions are in force on the date of entry into force of this Convention or have been modified only in minor respects so as not to affect their general character;

(ii) in relation to the United States, United States citizens.

(2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires and subject to the provisions of Article 25 (Mutual Agreement Procedure), have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4

Fiscal Residence

(1) For the purposes of this Convention:

(*a*) the term " resident of the United Kingdom " means:

(i) any person, other than a corporation, resident in the United Kingdom for the purposes of United Kingdom tax; but in the case of a partnership, estate, or trust, only to the extent that the income derived by such partnership, estate, or trust is subject to United Kingdom tax as the income of a resident, either in its hands or in the hands of its partners or beneficiaries; and

(ii) a corporation whose business is managed and controlled in the United Kingdom;

(*b*) the term " resident of the United States " means:

(i) any person, other than a corporation, resident in the United States for the purposes of United States tax; but in the case of a partnership, estate, or trust, only to the extent that the income derived by such partnership, estate, or trust is subject to United States tax as the income of a resident, either in its hands or in the hands of its partners or beneficiaries; and

(ii) a United States corporation.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then the individual's tax status shall be determined as follows:

(*a*) the individual shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If the individual has a permanent home available to him in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

(*b*) if the Contracting State in which the individual's centre of vital interests is located cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has an habitual abode;

(*c*) if the individual has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national; and

(*d*) if the individual is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) an estate or trust may be a resident of both Contracting States, the competent authorities of the Contracting States may settle the question of residence by mutual agreement.

(4) Where under any provision of this Convention income arising in one of the Contracting States is relieved from tax in that Contracting State and, under the law in force in the other Contracting State a person, in respect of

the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

ARTICLE 5

Permanent Establishment

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially:

(*a*) a branch;

(*b*) an office;

(*c*) a factory;

(*d*) a workshop;

(*e*) a mine, oil or gas well, quarry, or other place of extraction of natural resources; and

(*f*) a building or construction or installation project which exists for more than 12 months.

(3) Notwithstanding the provisions of the preceding paragraphs, the term "permanent establishment" shall be deemed not to include a fixed place of business used solely for one or more of the following activities:

(*a*) the storage, display, or delivery of goods or merchandise belonging to the enterprise;

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise for the purpose of storage, display or delivery;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise for the purpose of processing by another person;

(*d*) the maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

(*e*) the maintenance of a fixed place of business for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise; or

(*f*) a building or construction or installation project which does not exist for more than 12 months.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment of the enterprise in the first-mentioned State if such person has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless the contracts are confined to the activities described in paragraph (3) of this Article.

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(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.

(6) The fact that a corporation which is a resident of a Contracting State controls or is controlled by a corporation which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either corporation a permanent establishment of the other.

ARTICLE 6

Income from Immovable Property (Real Property)

(1) Income from immovable property (real property), including income from agriculture or forestry, may be taxed in the Contracting State in which such property is situated.

(2) The term " immovable property " shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

ARTICLE 7

Business Profits

(1) The business profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the business profits of the enterprise may be taxed in that other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3), where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions those expenses which are incurred for the purposes of the permanent establishment, including a reasonable allocation of executive and general administrative expenses, research and development

expenses, interest, and other expenses incurred for the purposes of the enterprise as a whole (or the part thereof which includes the permanent establishment), whether incurred in the State in which the permanent establishment is situated or elsewhere.

(4) No business profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(5) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(6) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

(7) For the purposes of this Convention, " business profits " includes, but is not limited to, income derived from manufacturing, mercantile, banking, insurance, agricultural, fishing or mining activities, the operation of ships or aircraft, the furnishing of services, the rental of tangible personal (movable) property, and the rental or licensing of cinematographic films or films or tapes used for radio or television broadcasting or from copyrights thereof. Such term also includes any other income effectively connected with a permanent establishment which the recipient, being a resident of one of the Contracting States, has in the other Contracting State. Such term does not include the performance of personal services by an individual either as an employee or in an independent capacity.

ARTICLE 8

Shipping and Air Transport

(1) Notwithstanding the provisions of Article 7 (Business Profits), profits of an enterprise of a Contracting State from the operation in international traffic of ships or aircraft registered under the laws of the Contracting State in which the person carrying on the enterprise is resident shall be taxable only in that State.

(2) For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits derived from the rental on a bareboat basis of ships or aircraft operated in international traffic if such rental income is incidental to other income described in paragraph (1).

(3) Notwithstanding the provisions of Article 7 (Business Profits), profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise in international traffic shall be taxable only in that State.

(4) Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft or containers owned and operated by the enterprise, the income from which is taxable only in that State, shall be taxable only in that State.

ARTICLE 9

Associated Enterprises

(1) Where an enterprise of a Contracting State is related to another enterprise and conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would have been made between independent enterprises, then any income, deductions, receipts, or outgoings which would, but for those conditions, have been attributed to one of the enterprises but by reason of those conditions have not been so attributed, may be taken into account in computing the profits or losses of that enterprise and taxed accordingly.

(2) Where any income, deductions, receipts, or outgoings which have been taken into account in one Contracting State in computing the profits or losses of an enterprise are also taken into account in the other Contracting State in computing the profits or losses of a related enterprise in accordance with paragraph (1) of this Article, then the first-mentioned State shall make such adjustment as may be appropriate to the amount of tax charged on those profits in that State.

(3) If one Contracting State disagrees with the amount of any income, deductions, receipts, or outgoings, taken into account in computing profits or losses in the other in accordance with paragraph (1), the two Contracting States shall endeavour to reach agreement in accordance with the procedure in Article 25 (Mutual Agreement Procedure).

(4) Except as specifically provided in this Article, in determining the tax liability of an enterprise doing business in a Contracting State, or in a political subdivision or local authority of a Contracting State, such Contracting State, political subdivision, or local authority shall not take into account the income, deductions, receipts, or outgoings of a related enterprise of the other Contracting State or of an enterprise of any third State related to an enterprise of the other Contracting State.

(5) For the purposes of this Convention, an enterprise is related to another enterprise if either enterprise directly or indirectly controls the other, or if any third person or persons (related to each other or acting together) control both.

ARTICLE 10

Dividends

(1) Dividends derived from a corporation which is a resident of a Contracting State by a resident of the other Contracting State may be taxed in the other Contracting State. However, such dividends may be taxed in the Contracting State of which the corporation paying the dividends is a resident, but if the beneficial owner is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

(2) As long as an individual resident in the United Kingdom is entitled under United Kingdom law to a tax credit in respect of dividends paid by a corporation which is resident in the United Kingdom, paragraph (1) of this Article shall not apply. In these circumstances, dividends derived from a corporation which is a resident of a Contracting State by a resident

of the other Contracting State may be taxed in the other Contracting State. However, such dividends may be taxed in the Contracting State of which the corporation paying the dividends is a resident, but if the beneficial owner is a resident of the other Contracting State, the tax so charged shall not exceed the tax provided in sub-paragraphs (*a*) and (*b*) below:

(*a*) In the case of dividends paid by a corporation which is a resident of the United Kingdom:

(i) to a United States corporation which either alone or together with one or more associated corporations controls, directly or indirectly, at least 10 per cent of the voting stock of the corporation which is a resident of the United Kingdom paying the dividend, the United States corporation shall be entitled to a payment from the United Kingdom of a tax credit equal to one-half of the tax credit to which an individual resident in the United Kingdom would have been entitled had he received the dividend, subject to the deduction withheld from such payment and according to the laws of the United Kingdom of an amount not exceeding 5 per cent of the aggregate of the amount or value of the dividend and the amount of the tax credit paid to such corporation;

(ii) in all other cases, the resident of the United States to whom such dividend is paid shall be entitled to a payment from the United Kingdom of the tax credit to which an individual resident in the United Kingdom would have been entitled had he received the dividend, subject to the deduction withheld from such payment and according to the laws of the United Kingdom of an amount not exceeding 15 per cent of the aggregate of the amount or value of the dividend and the amount of the tax credit paid to such resident;

(iii) the aggregate of the amount or value of the dividend and the amount of the tax credit referred to in sub-paragraphs (*a*) (i) and (ii) of this paragraph paid by the United Kingdom to the United States corporation or other resident (without reduction for the 5 or 15 per cent deduction, as the case may be, by the United Kingdom) shall be treated as a dividend for United States tax credit purposes.

(*b*) In the case of dividends paid by a United States corporation:

(i) to a corporation which is a resident of the United Kingdom and controls, directly or indirectly, at least 10 per cent of the voting stock of the United States corporation paying such dividend, the tax charged by the United States shall not exceed 5 per cent of the gross amount of the dividend;

(ii) in all other cases, the tax charged by the United States on payment of a dividend to a resident of the United Kingdom shall not exceed 15 per cent of the gross amount of the dividend.

For the purposes of this paragraph, two corporations shall be deemed to be associated if one controls directly or indirectly more than 50 per cent of the voting power in the other corporation, or a third corporation controls more than 50 per cent of the voting power in both of them.

(3) The term "dividends" for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as a distribution and for United States tax purposes includes any item which under the law of the United States is treated as a distribution out of earnings and profits.

(4) Paragraphs (1) or (2), as the case may be, shall not apply if the person deriving the dividends, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services), or 17 (Artistes and Athletes), as the case may be, shall apply.

(5) Where a corporation which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the corporation, except insofar as such dividends are paid to a resident of that other State (and where that other State is the United States, to a national of the United States) or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other State, even if the dividends paid consist wholly or partly of profits or income arising in that other State.

(6) A corporation which is a resident of the United Kingdom shall be exempt from United States tax on its accumulated or undistributed earnings, profits, income or surplus, if individuals (other than nationals of the United States) who are residents of the United Kingdom control, directly or indirectly, throughout the last half of the taxable year, more than 50 per cent of the entire voting power in such corporation.

(7) (*a*) If the beneficial owner of a dividend being a resident of a Contracting State owns 10 per cent or more of the class of shares of a corporation in respect of which the dividend is paid, then paragraph (1), or as the case may be paragraph (2), of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the corporation paying the dividend earned or other income which it received in a period ending 12 months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividend became the owner of 10 per cent or more of the class of shares in question.

(*b*) Paragraphs (1) and (2) of this Article shall not apply if:

(i) the recipient of the dividend is exempt from tax thereon in the United States; and

(ii) the dividend is paid in such circumstances that, if the recipient were a resident of the United Kingdom exempt from United Kingdom tax, the exemption would be limited or removed.

Provided that this paragraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purposes of securing the benefit of this Article.

ARTICLE 11

Interest

(1) Interest derived and beneficially owned by a resident of the United Kingdom shall be exempt from tax by the United States.

(2) Interest derived and beneficially owned by a resident of the United States shall be exempt from tax by the United Kingdom.

(3) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises but subject to the provisions of paragraph (7) of this Article shall not include any income which is treated as a distribution under the provisions of Article 10 (Dividends). Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(4) The provisions of paragraphs (1) and (2) shall not apply if the person deriving the interest, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 (Business Profits), Article 14 (Independent Personal Services), or Article 17 (Artistes and Athletes), as the case may be, shall apply.

(5) Where, owing to a special relationship between the payer and the person deriving the interest or between both of them and some other person, the amount of the interest paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

(6) Whether or not a resident of a Contracting State derives profits or income from the other Contracting State, the other State may not impose any tax on the interest paid by that resident, except insofar as such interest is paid to a resident of that other State (and where that other State is the United States, to a national of the United States) or insofar as the debt claim in respect of which the interest is paid is effectively connected with a permanent establishment or a fixed base of the person deriving interest situated in that other State.

(7) Any provision in the law of either Contracting State relating only to interest paid to a non-resident corporation shall not operate so as to require such interest paid to a resident of the other Contracting State to be treated as a distribution by the corporation paying such interest. The preceding sentence shall not apply to interest paid to a corporation of one

Contracting State in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons who are residents of the other Contracting State.

(8) The provisions of paragraph (2) of this Article shall not apply if the recipient of the interest is exempt from tax on such income in the United States and such recipient sells or makes a contract to sell the holding from which such interest is derived within three months of the date such recipient acquired such holding.

ARTICLE 12

Royalties

(1) Royalties derived and beneficially owned by a resident of the United Kingdom shall be exempt from tax by the United States.

(2) Royalties derived and beneficially owned by a resident of the United States shall be exempt from tax by the United Kingdom.

(3) The term "royalties" as used in this Article (*a*) means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (but not including cinematographic films or films or tapes used for radio or television broadcasting); any patent, trade mark, design or model, plan, secret formula or process, or other like right or property, or for information concerning industrial, commercial or scientific experience; and (*b*) shall include gains derived from the alienation of any such right or property which are contingent on the productivity, use, or disposition thereof; including the supply of assistance of an ancillary and subsidiary nature furnished as a means of enabling the application or enjoyment of any such right or property.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the person deriving the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 (Business Profits), Article 14 (Independent Personal Services), or Article 17 (Artistes and Athletes), as the case may be, shall apply.

(5) Where, owing to a special relationship between the payer and the person deriving the royalties or between both of them and some other person, the amount of the royalties paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital Gains

Except as provided in Article 8 (Shipping and Air Transport) of this Convention, each Contracting State may tax capital gains in accordance with the provisions of its domestic law.

ARTICLE 14

Independent Personal Services

Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity may be taxed in that State. Such income may also be taxed in the other Contracting State if:

(*a*) the individual is present in that other State for a period or periods exceeding in the aggregate 183 days in the tax year concerned, but only so much thereof as is attributable to services performed in that State, or

(*b*) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof as is attributable to services performed in that State.

ARTICLE 15

Dependent Personal Services

(1) Subject to the provisions of Articles 18 (Pensions) and 19 (Government Service), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(*a*) the recipient is present in that other State for a period not exceeding in the aggregate 183 days in the tax year concerned; and

(*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State; and

(*c*) the remuneration is not borne as such by a permanent establishment or a fixed base which the employer has in that other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment as a member of the regular complement of a ship or aircraft in international traffic may be taxed by the Contracting State of which the employer operating the ship or aircraft is a resident.

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ARTICLE 16

Investment or Holding Companies

The provisions of Articles 10 (Dividends), 11 (Interest) or 12 (Royalties) of this Convention shall not apply to a corporation which is a resident of one of the Contracting States and which derives dividends, interest, or royalties arising within the other Contracting State if:

(*a*) (i) the tax imposed on the corporation by the first-mentioned Contracting State in respect of such dividends, interest or royalties is substantially less than the tax generally imposed by that State on corporate profits; or

(ii) the corporation is a resident of the United States and receives more than eighty per cent of its gross income from sources outside the United States as determined by and for the period prescribed in sections 861 (*a*) (1) (B) and (*a*) (2) (A) of the Internal Revenue Code of 1954, as they may be amended from time to time in minor respects so as not to affect their general principle; and

(*b*) 25 per cent or more of the capital of such corporation is owned directly or indirectly by one or more persons who are not individual residents of the first-mentioned Contracting State and are not nationals of the United States.

ARTICLE 17

Artistes and Athletes

(1) Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised, except where the amount of the gross receipts derived by an entertainer or athlete, including expenses reimbursed to him or borne on his behalf, from such activities do not exceed 15,000 United States dollars or its equivalent in pounds sterling in the tax year concerned.

(2) Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services), and 15 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. For the purposes of the preceding sentence, income of an entertainer or athlete shall be deemed not to accrue to another person if it is established that neither the entertainer or athlete, nor persons related thereto, participate directly or indirectly in the profits of such other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions or other distributions.

ARTICLE 18

Pensions

(1) Subject to the provisions of paragraph (2) of Article 19 (Government Service), any pension in consideration of past employment and any annuity paid to an individual who is a resident of a Contracting State shall be taxed only in that State.

(2) Alimony paid to an individual who is a resident of one of the Contracting States by an individual who is a resident of the other Contracting State shall be exempt from tax in the other Contracting State.

(3) The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19

Government Service

(1) (*a*) Remuneration, other than a pension, paid by a Contracting State to any individual in respect of services rendered to that State shall be taxable only in that State.

(*b*) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that other Contracting State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of performing the services.

(2) (*a*) Any pension paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

(*b*) However, such pension shall be taxable only in the other Contracting State if the recipient is a national of and a resident of that State.

(3) The provisions of Articles 14 (Independent Personal Services), 15 (Dependent Personal Services), 17 (Artistes and Athletes), and 18 (Pensions), as the case may be, shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by or on behalf of one of the Contracting States or a political subdivision or a local authority thereof.

ARTICLE 20

Teachers

(1) A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college or other recognized educational institution in that Contracting State and who was immediately before that visit a

resident of the other Contracting State, shall be exempted from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose.

(2) The exemption provided in this Article may be applied by the Contracting State in which the teaching or research is performed to current payments to such professor or teacher in anticipation of fulfilment of the requirements of paragraph (1) or by way of withholding and refund, but in either case exemption shall be conditional upon fulfilment of the requirements of paragraph (1).

(3) This Article shall only apply to income from research if such research is undertaken by the professor or teacher in the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 21

Students and Trainees

Payments which a student or business apprentice who was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State for the purpose of his full-time education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments are made to him from sources outside that State.

ARTICLE 22

Other Income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph (1) shall not apply if the person deriving the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 (Business Profits), Article 14 (Independent Personal Services), or Article 17 (Artistes and Athletes), as the case may be, shall apply.

ARTICLE 23

Elimination of Double Taxation

(1) In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a resident or national of the United States as a credit against the

United States tax the appropriate amount of tax paid to the United Kingdom; and, in the case of a United States corporation owning at least 10 per cent of the voting stock of a corporation which is a resident of the United Kingdom from which it receives dividends in any taxable year, the United States shall allow credit for the appropriate amount of tax paid to the United Kingdom by that corporation with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid to the United Kingdom, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. For the purposes of applying the United States credit in relation to tax paid to the United Kingdom:

(*a*) the taxes referred to in paragraphs (2)(*b*) and (3) of Article 2 (Taxes Covered) shall be considered to be income taxes;

(*b*) the amount of 5 or 15 per cent, as the case may be, withheld under paragraph (2)(*a*)(i) or (ii) of Article 10 (Dividends) from the tax credit paid by the United Kingdom shall be treated as an income tax imposed on the recipient of the dividend; and

(*c*) that amount of tax credit referred to in paragraph (2)(*a*)(i) of Article 10 (Dividends) which is not paid to the United States corporation but to which an individual resident in the United Kingdom would have been entitled had he received the dividend shall be treated as an income tax imposed on the United Kingdom corporation paying the dividend.

(2) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (as it may be amended from time to time without changing the general principle hereof):

(*a*) United States tax payable under the laws of the United States and in accordance with the present Convention, whether directly or by deduction, on profits or income from sources within the United States (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which the United States tax is computed;

(*b*) in the case of a dividend paid by a United States corporation to a corporation which is resident in the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the United States corporation, the credit shall take into account (in addition to any United States tax creditable under (*a*)) the United States tax payable by the corporation in respect of the profits out of which such dividend is paid.

(3) For the purposes of the preceding paragraphs of this Article, income or profits derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources within that other Contracting State, except that where the United States taxes on the basis of citizenship, the United Kingdom shall not be bound to give credit to a United States national who

is resident in the United Kingdom on income from sources outside the United States as determined under the laws of the United Kingdom and the United States shall not be bound to give credit for United Kingdom tax on income received by such national from sources outside the United Kingdom, as determined under the laws of the United States.

(4) The provisions of this Article shall not affect the taxation by the United States of foreign oil and gas extraction income and foreign oil related income as provided in the Tax Reduction Act of 1975.[1]

ARTICLE 24

Non-Discrimination

(1) Individuals who are nationals of a Contracting State and who are residents of the other Contracting State shall not be subjected in that other State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Subject to the provisions of paragraph (4) of this Article, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, if reasonable in amount, be deductible for the purpose of determining the taxable profits of such enterprise under the same conditions as if they had been paid to a resident of the first-mentioned State. For the purposes of this paragraph, the term "other disbursements" shall include charges for amounts expended by such residents for the purposes of such enterprise, including a reasonable allocation of executive and general administrative expenses (except to the extent representing the expenses of a type of activity which is not for the benefit of such enterprise, but constitutes "stewardship" or "over-seeing" functions undertaken for such resident's own benefit as an investor in the enterprise), research and development in respect of which such enterprise has the benefits under a cost and risk sharing agreement and other expenses incurred by such resident for the benefit of a group of related enterprises including such enterprise.

(4) Paragraph (3) shall not apply to any interest, royalties, or other disbursements to which the provisions of Article 9 (Associated Enterprises), paragraphs (5) and (7) of Article 11 (Interest) or paragraph (5) of Article 12 (Royalties) apply, or would apply but for the provisions of paragraph (2) of Article 1 (Personal Scope).

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected

[1] 89 Stat. 26; 26 U.S.C. § 1 note.

therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(6) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances and reliefs which are granted to individuals so resident.

ARTICLE 25

Mutual Agreement Procedure

(1) Where a resident or national of a Contracting State considers that the actions of one or both of the Contracting States result or will result in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or national.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention. Where an agreement has been reached, a refund as appropriate shall be made to give effect to the agreement.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. In particular the competent authorities of the Contracting States may reach agreement on:

(*a*) the attribution of income, deductions, credits, or allowances of an enterprise of a Contracting State to its permanent establishment situated in the other Contracting State;

(*b*) the allocation of income, deductions, credits, or allowances between persons;

(*c*) the nature of particular items of income;

(*d*) the meaning of terms not otherwise defined in this Convention;

(*e*) the place where a particular item of income has its source.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching agreement as contemplated by this Convention.

ARTICLE 26

Exchange of Information and Administrative Assistance

(1) The competent authorities of the Contracting States shall exchange such information (being information available under the respective taxation laws of the Contracting States) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or the administration of

statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with the assessment, collection, enforcement or prosecution in respect of taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the Contracting States will endeavour to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by this Convention from taxation imposed by such other Contracting State does not enure to the benefit of persons not entitled thereto. The United Kingdom will be regarded as fulfilling this obligation by the continuation of its existing arrangements for ensuring that relief from taxation imposed by the laws of the United States does not enure to the benefits of persons not entitled thereto.

(3) Paragraph (2) of this Article shall not impose upon either of the Contracting States the obligation to carry out administrative measures which are of a different nature from those used in the collection of its own tax, or which would be contrary to its sovereignty, security or public policy. In determining the administrative measures to be carried out, each Contracting State may take into account the administrative measures and practices of the other Contracting State in recovering taxes on behalf of the first-mentioned Contracting State.

(4) The competent authorities of the Contracting States shall consult with each other for the purpose of co-operating and advising in respect of any action to be taken in implementing this Article.

ARTICLE 27

Effect on Diplomatic and Consular Officials and Domestic Laws

(1) Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

(2) This Convention shall not restrict in any manner any exclusion, exemption, deduction, credit, or other allowances now or hereafter accorded by the laws of either Contracting State.

ARTICLE 28

Entry into Force

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) This Convention shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon have effect:

(*a*) in the United Kingdom:

(i) in relation to any dividend to which sub-paragraph (2)(*a*)(ii) of Article 10 (Dividends) applies, in respect of income tax and payment of tax credit, for any year of assessment beginning on or

after 6 April 1973. A dividend paid on or after 1 April 1973 and before 6 April 1973 shall be treated for tax credit purposes as paid on 6 April 1973;

(ii) in relation to sub-paragraph (2) (*a*) (i) of Article 10 (Dividends) and any other provision of this Convention, in respect of income tax and payment of tax credit and in respect of capital gains tax, for any year of assessment beginning on or after 6 April 1975;

(iii) in respect of corporation tax, for any financial year beginning on or after 1 April 1975; and

(iv) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January 1975;

(*b*) in the United States:

(i) in respect of credits against United States tax allowed under paragraph (1) of Article 23 (Elimination of Double Taxation), for taxes paid to the United Kingdom on or after 1 April 1973;

(ii) in respect of tax withheld at the source, for amounts paid or credited on or after 1 January 1975; and

(iii) in respect of other taxes, for taxable years beginning on or after 1 January 1975.

(3) Subject to the provisions of paragraph (4) of this Article the Convention between the United Kingdom of Great Britain and Northern Ireland and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington on 16 April 1945, as amended by the Supplementary Protocol signed at Washington on 6 June 1946, by the Supplementary Protocol signed at Washington on 25 May 1954, by the Supplementary Protocol signed at Washington on 19 August 1957 and by the Supplementary Protocol signed at London on 17 March 1966 [1] (hereinafter referred to as "the 1945 Convention"), shall cease to have effect in respect of taxes to which this Convention in accordance with the provisions of paragraph (2) of this Article applies.

(4) Where any provision of the 1945 Convention would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect:

(*a*) in the United Kingdom, for any year of assessment or financial year and

(*b*) in the United States, for any taxable year

beginning, in either case, before 1 January 1976.

(5) The 1945 Convention shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

(6) This Convention shall not affect any Agreement in force extending the 1945 Convention in accordance with Article XXII thereof.

[1] TIAS 1546, 3165, 4124, 6089; 60 Stat. 1377; 6 UST 37; 9 UST 1329; 17 UST 1254.

ARTICLE 29

Termination

(1) This Convention shall remain in force indefinitely but either of the Contracting States may, on or before 30 June in any year after the year 1980, give to the other Contracting State, through diplomatic channels notice of termination and, in such event, the present Convention shall cease to be effective:

(*a*) in respect of United States tax, for the taxable years beginning on or after 1 January in the year next following that in which such notice is given;

(*b*) (i) in respect of United Kingdom income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the year next following that in which such notice is given;

(ii) in respect of United Kingdom corporation tax, for any financial year beginning on or after 1 April in the year next following that in which such notice is given;

(iii) in respect of United Kingdom petroleum revenue tax, for any chargeable period beginning on or after 1 January in the year next following that in which such notice is given.

(2) The termination of the present Convention shall not have the effect of reviving any treaty or arrangement abrogated by the present Convention or by treaties previously concluded between the Contracting States.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at London this 31st day of December 1975.

For the Government of the United States of America:

Ronald I. Spiers [1]

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Goronwy-Roberts of Caernarvon & Ogwen. [2]

[1] Ronald I. Spiers.
[2] Goronwy-Roberts of Caenarvon and Ogwen.

[EXCHANGE OF NOTES]

The British Secretary of State for Foreign and Commonwealth Affairs to the American Ambassador

AMU 106/548/1

FOREIGN AND COMMONWEALTH OFFICE SW1A 2AL

13 April 1976

Her Excellency
The Hon Anne Armstrong
etc etc etc
American Embassy
Grosvenor Square
LONDON W1A 1AE

Your Excellency

I have the honour to refer to the recent discussions between representatives of our two Governments concerning the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on 31 December 1975, and to propose that the Convention be amended as follows:

1. Replace paragraph (2) of Article 1 (Personal Scope) by the following:

"(2) A corporation which is both resident of the United Kingdom within the meaning of paragraph (1) (a) (ii) of Article 4 (Fiscal Residence), and a resident of the United States within the meaning of paragraph (1) (b) (ii) of Article 4 shall not be entitled to claim any relief or exemption from tax provided by this Convention, except that such corporation may claim the benefits of Article 23 (Elimination of Double Taxation) with respect to the petroleum revenue tax referred to in paragraph (2) (b) of

Article 2 (Taxes Covered), of Article 24 (Non Discrimination) and of Article 28 (Entry into Force)".

2. Replace sub-paragraph (j) of paragraph (1) of Article 3 (General Definitions) by the following:

"(j) the term "third State" means any State or territory other than the United States or the United Kingdom and the term "enterprise of a third State" shall be construed accordingly".

3. The existing sub-paragraph (j) of paragraph (1) will become a new sub-paragraph (k).

4. Replace paragraph (3) of Article 8 (Shipping and Air Transport) by the following:

"(3) Notwithstanding the provisions of Article 7 (Business Profits), profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State".

5. Replace paragraph (4) of Article 9 (Associated Enterprises) by the following:

"(4) Except as specifically provided in this Article:

(a) Where an enterprise doing business in one Contracting State:

(i) is a resident of the other Contracting State; or

(ii) is controlled, directly or indirectly, by an enterprise which is a resident of the other Contracting State; and

(b) where the enterprise which is a resident of the other Contracting State is a corporation, such corporation is neither:

(i) a controlled foreign corporation within the meaning of Section 957 of the United States Internal Revenue Code of 1954 (as it may be amended from time to time without changing the general principle thereof); nor

(ii) created or organized under the laws of the first-mentioned Contracting State or of any third State or controlled, directly or indirectly, by a corporation which is a resident of any third State;

then, in determining the tax liability of the first-mentioned enterprise in the State in which it does business, or in a political subdivision or local authority of that State, such State, political subdivision or local authority shall not take into account the income, deductions, receipts or outgoings of a related enterprise which is a resident of the other Contracting State or of an enterprise of any third State

which is related to the enterprise of the other Contracting State, except that this prohibition shall not apply where the first-mentioned enterprise is a resident of the first-mentioned Contracting State, to the extent that it owns, directly or indirectly, the capital of the related enterprise.

6. Replace Article 16 (Investment or holding companies) by the following:

"ARTICLE 16

Investment or Holding Companies

(1) The provisions of Articles 10 (Dividends), 11 (Interest) or 12 (Royalties) of this Convention shall not apply to a corporation which is a resident of one of the Contracting States and which derives dividends, interest or royalties arising within the other Contracting State if:

(a) (i) the tax imposed on the corporation by the first-mentioned Contracting State in respect of such dividends, interest or royalties is substantially less than the tax generally imposed by that State on corporate profits; or

(ii) the corporation is a resident of the United States and receives more than 80 per cent of its gross income from sources outside the United States as determined by and for the period prescribed in Sections 861 (a) (1) (B) and (a) (2) (A) of the United States Internal Revenue Code of 1954, as

they may be amended from time to time in minor respects so as not to affect their general principle and

(b) 25 per cent or more of the capital of such corporation is owned, directly or indirectly, by one or more persons who are not individual residents of the first-mentioned Contracting State and are not nationals of the United States.

(2) Nothing in this Article shall however prevent a claim under the provisions of Articles 10 (Dividends), 11 (Interest) or 12 (Royalties) by a United States corporation where more than 75 per cent of the capital of that corporation is directly or indirectly owned:

(a) by a United States corporation which receives 20 per cent or more of its gross income from sources within the United States as determined by and for the period described in sub-paragraph (1) (a) (ii) of this Article; or

(b) by a corporation (other than a United States corporation) which by reference to the provisions of Section 283 of the United Kingdom Income and Corporation Taxes Act 1970 (as it may be amended from time to time without changing the general principle thereof) would not fall to be treated as a close company; or

(c) by a corporation which is a resident of the United Kingdom and in which more than 50 per cent of the voting power is controlled, directly or indirectly, by individuals who are residents of the United Kingdom."

If the foregoing proposals are acceptable to the Government of the United States of America, I have the honour to propose that this Note together with your reply in that sense shall constitute an Agreement between our two Governments which shall enter into force on the same date as the Convention.

I have the honour to be
with the highest consideration
your Excellency's obedient Servant
(for the Secretary of State)

Derek M. D. Thomas[1]

[1] Derek M. D. Thomas.

The American Ambassador to the British Secretary of State for Foreign and Commonwealth Affairs

No. 13 London, April 13, 1976.

Excellency:

I have the honor to acknowledge receipt of your note of today's date which reads as follows:

"I have the honour to refer to the recent discussions between representatives of our two Governments concerning the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on 31 December 1975, and to propose that the Convention be amended as follows:

1. Replace paragraph (2) of Article 1 (Personal Scope) by the following:

"(2) A corporation which is both resident of the United Kingdom within the meaning of paragraph (1) (a) (ii) of Article 4 (Fiscal Residence), and a resident of the United States within the meaning of paragraph (1) (b) (ii) of Article 4 shall not be entitled to claim any relief or exemption from tax provided by this Convention, except that such

The Right Honorable
Anthony Crosland MP,
Secretary of State for Foreign
and Commonwealth Affairs,
London.

corporation may claim the benefits of Article 23 (Elimination of Double Taxation) with respect to the petroleum revenue tax referred to in paragraph (2) (b) of Article 2 (Taxes Covered), of Article 24 (Non-Discrimination) and of Article 28 (Entry into Force)"

2. Replace sub-paragraph (j) of paragraph (1) of Article 3 (General Definitions) by the following:

"(j) the term "third State" means any State or territory other than the United States or the United Kingdom and the term "enterprise of a third State" shall be construed accordingly".

3. The existing sub-paragraph (j) of paragraph (1) will become a new sub-paragraph (k).

4. Replace paragraph (3) of Article 8 (Shipping and Air Transport) by the following:

"(3) Notwithstanding the provisions of Article 7 (Business Profits), profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State".

5. Replace paragraph (4) of Article 9 (Associated Enterprises) by the following:

"(4) Except as specifically provided in this Article:

a. Where an enterprise doing business in one Contracting State:

(i) is a resident of the other Contracting State; or

(ii) is controlled, directly or indirectly, by an enterprise which is a resident of the other Contracting State; and

b. where the enterprise which is a resident of the other Contracting State is a corporation, such corporation is neither:

(i) a controlled foreign corporation within the meaning of Section 957 of the United States Internal Revenue Code of 1954 (as it may be amended from time to time without changing the general principle thereof); nor

(ii) created or organized under the laws of the first-mentioned Contracting State or of any third State or controlled, directly or indirectly, by a corporation which is a resident of any third State;

then, in determining the tax liability of the first-mentioned enterprise in the State in which it does business, or in a political subdivision or local authority of that State, such State, political subdivision or local authority shall not take into account the income, deductions, receipts or

outgoings of a related enterprise which is a resident of the other Contracting State or of an enterprise of any third State which is related to the enterprise of the other Contracting State, except that this prohibition shall not apply where the first-mentioned enterprise is a resident of the first-mentioned Contracting State, to the extent that it owns, directly or indirectly, the capital of the related enterprise.

6. Replace Article 16 (Investment or holding companies) by the following:

"ARTICLE 16

Investment or Holding Companies

(1) The provisions of Articles 10 (Dividends). 11 (Interest) or 12 (Royalties) of this Convention shall not apply to a corporation which is a resident of one of the Contracting States and which derives dividends, interest or royalties arising within the other Contracting State if:

(a) (i) the tax imposed on the corporation by the first-mentioned Contracting State in respect of such dividends, interest or royalties is substantially less than the tax generally imposed by that State on corporate profits; or

(ii) the corporation is a resident of the United States and receives more than 80 percent of its gross income from sources outside the United States as

determined by and for the period prescribed in Sections 861 (a) (1) (B) and (a) (2) (A) of the United States Internal Revenue Code of 1954, as they may be amended from time to time in minor respects so as not to affect their general principle and

(b) 25 percent or more of the capital of such corporation is owned, directly or indirectly, by one or more persons who are not individual residents of the first-mentioned Contracting State and are not nationals of the United States.

(2) Nothing in this Article shall however prevent a claim under the provisions of Articles 10 (Dividends) 11 (Interest) or 12 (Royalties) by a United States corporation where more than 75 percent of the capital of that corporation is directly or indirectly owned:

(a) by a United States corporation which receives 20 percent or more of its gross income from sources within the United States as determined by and for the period described in sub-paragraph (1) (a) (ii) of this Article; or

(b) by a corporation (other than a United States corporation) which by reference to the provisions of Section 283 of the United Kingdom Income and Corporation Taxes Act 1970 (as it may be amended from time to time without changing the general principle thereof) would not fall to be treated as a close company; or

(c) by a corporation which is a resident of the United Kingdom and in which more than 50 percent of the voting power is controlled, directly or indirectly, by individuals who are residents of the United Kingdom".

If the foregoing proposals are acceptable to the Government of the United States of America, I have the honour to propose that this Note together with your reply in that sense shall constitute an Agreement between our two Governments which shall enter into force on the same date as the Convention."

I have the honor to inform you that the Government of the United States of America agree to the proposal set forth in the above Note and that your Note together with this reply shall constitute an agreement between our two Governments which shall enter into force on the same date as the Convention.

Accept, Excellency, the renewed assurances of my highest consideration.

Anne Armstrong

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED AT LONDON ON 31 DECEMBER 1975, AS AMENDED BY NOTES EXCHANGED AT LONDON ON 13 APRIL 1976

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at London on 31 December 1975, as amended by Notes exchanged at London on 13 April 1976 (hereinafter referred to as "the Convention");

Have agreed as follows:

Article I

Paragraphs (2) and (4) of Article 1 (Personal Scope) of the Convention shall be deleted and replaced by the following:

"(2) A corporation which is both a resident of the United Kingdom within the meaning of paragraph (1)(a)(ii) of Article 4 (Fiscal Residence), and a resident of the United States within the meaning of paragraph (1)(b)(ii) of Article 4 shall not be entitled to claim any relief or exemption from tax provided by this Convention except that such corporation may claim the benefits of paragraph (2) of Article 8 (Shipping and Air Transport), of Article 23 (Elimination of Double Taxation) with respect to paragraph (1)(c) thereof and the petroleum revenue tax referred to in paragraph (2)(b) of Article 2 (Taxes Covered), of Article 24 (Non-Discrimination) and of Article 28 (Entry into Force) and the provisions of paragraph (7) of Article 11 (Interest) shall apply to it.

(4) Nothing in paragraph (3) of this Article shall affect the application by a Contracting State of:

(a) paragraph (2) of Article 8 (Shipping and Air Transport), and Articles 9 (Associated Enterprises), 23 (Elimination of Double Taxation), 24 (Non-Discrimination), and 25 (Mutual Agreement Procedure); and

(b) Articles 19 (Government Service), 20 (Teachers), 21 (Students and Trainees), and 27 (Effect on Diplomatic and Consular Officials and Domestic

Laws), with respect to individuals who are neither nationals of, nor have immigrant status in, that State."

Article II

Article 8 (Shipping and Air Transport) of the Convention shall be deleted and replaced by the following:

"Article 8

Shipping and Air Transport

(1) Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

(2) Notwithstanding any other provision of this Convention, profits which a national of the United States not resident in the United Kingdom or a United States corporation derives from operating ships documented or aircraft registered under the laws of the United States shall be exempt from United Kingdom tax.

(3) For the purpose of this Article, profits from the operation of ships or aircraft include profits derived from the rental on a bareboat basis of ships or aircraft if such rental income is incidental to other income described in paragraph (1) of this Article.

(4) Notwithstanding the provisions of Article 7 (Business Profits), profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State, except where such containers are used for the transport of goods or merchandise solely between places within the other Contracting State.

(5) The provisions of this Article shall apply also to profits derived by an enterprise of a Contracting State from participation in a pool, a joint business or an international operating agency.

(6) Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft or containers owned and operated by the enterprise, the income from which is taxable only in that State, shall be taxed only in that State."

Article III

Sub-paragraph (c) of paragraph (1) of Article 23 (Elimination of Double Taxation) of the Convention shall be deleted and replaced by the following:

"(c) that amount of tax credit referred to in paragraph (2)(a)(i) of Article 10 (Dividends) which is not paid to the United States corporation but to which an individual resident in the United Kingdom would have been entitled had he received the dividend shall be treated as an income tax imposed on the corporation paying the dividend."

Article IV

Paragraph (4) of Article 24 (Non-Discrimination) of the Convention shall be deleted and replaced by the following:

"(4) Paragraph (3) shall not apply to any interest, royalties, or other disbursements to which the provisions of Article 9 (Associated Enterprises), paragraphs (5) and (7) of Article 11 (Interest) or paragraph (5) of Article 12 (Royalties) apply."

Article V

1. This Protocol shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Protocol shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon have effect in accordance with Article 28 of the Convention.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at London this 26th day of August 1976.

For the Government of the United States of America:

Irene Armstrong

For the Government of the United Kingdom of Great Britain and Northern Ireland:

John E. Tomlinson [1]

[1] John E. Tomlinson.

SECOND PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED AT LONDON ON 31 DECEMBER 1975, AS AMENDED BY NOTES EXCHANGED AT LONDON ON 13 APRIL 1976 AND BY A PROTOCOL SIGNED AT LONDON ON 26 AUGUST 1976

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a second Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at London on 31 December 1975, as amended by Notes exchanged at London on 13 April 1976 and by a Protocol signed at London on 26 August 1976 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

Sub-paragraph (a) of paragraph (4) of Article 1 (Personal Scope) of the Convention shall be deleted and replaced by the following:

"(a) paragraph (4) of Article 4 (Fiscal Residence), paragraph (2) of Article 8 (Shipping and Air Transport), and Articles 9 (Associated Enterprises), 23 (Elimination of Double Taxation), 24 (Non-Discrimination) and 25 (Mutual Agreement Procedure); and"

ARTICLE II

Paragraph (4) of Article 4 (Fiscal Residence) of the Convention shall be renumbered as paragraph (5) and a new paragraph (4) shall be added, to read as follows:

"(4) A marriage before 1 January 1974 between a woman who is a United States national and a man domiciled within the United Kingdom shall be deemed to have taken place on 1 January 1974 for the purpose of determining her domicile on or after 6 April 1976 for United Kingdom tax purposes."

ARTICLE III

Paragraph (1) of Article 22 (Other Income) of the Convention shall be deleted and replaced by the following:

"(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the

foregoing Articles of this Convention shall be taxable only in that State. The preceding sentence shall not apply to income paid out of trusts."

ARTICLE IV

Sub-paragraph (e) of paragraph (3) of Article 25 (Mutual Agreement Procedure) of the Convention shall end with a semi-colon and the following sub-paragraph shall be added:

"(f) the elimination of double taxation in respect of income paid out of trusts."

ARTICLE V

Clauses (ii), (iii) and (iv) of sub-paragraph (a) of paragraph (2) of Article 28 (Entry into Force) of the Convention shall be renumbered as clauses (iii), (iv) and (v), respectively, and a new clause (ii) shall be added, to read as follows:

"(ii) in relation to paragraph (4) of Article 4 (Fiscal Residence), for any year of assessment beginning on or after 6 April 1976;"

ARTICLE VI

(1) This Protocol shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) This Protocol shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon have effect in accordance with Article 28 of the Convention.

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this second Protocol.

Done in duplicate at London this 31st day of March 1977.

For the Government of the United States of America:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

THIRD PROTOCOL FURTHER AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED AT LONDON ON 31 DECEMBER 1975

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to conclude a third Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at London on 31 December 1975, as amended by Notes exchanged at London on 13 April 1976 and by Protocols signed at London on 26 August 1976 and 31 March 1977 (hereinafter referred to as " the Convention ");

Have agreed as follows:

ARTICLE I

(1) Paragraph (2) of Article 2 (Taxes covered) shall be deleted and replaced by the following:

" (2) The existing taxes to which this Convention shall apply are:

(*a*) in the case of the United States, the Federal income taxes imposed by the Internal Revenue Code and the tax on insurance premiums paid to foreign insurers; but (except as provided in paragraph (6) of Article 10 (Dividends)) excluding the accumulated earnings tax and the personal holding company tax. The foregoing taxes covered are hereinafter referred to as " United States tax ";

(*b*) in the case of the United Kingdom, the income tax, the capital gains tax, the corporation tax and the petroleum revenue tax. The foregoing taxes covered are hereinafter referred to as " United Kingdom tax "."

(2) Paragraph (3) of Article 2 (Taxes covered) shall be deleted and replaced by the following:

" (3) This Convention shall also apply to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws."

(3) Paragraph (4) of Article 9 (Associated enterprises) shall be deleted and replaced by the following:

" (4) Except as specifically provided in this Article:

(*a*) where an enterprise doing business in one Contracting State:

(i) is a resident of the other Contracting State; or

(ii) is controlled, directly or indirectly, by an enterprise which is a resident of the other Contracting State; and

(*b*) where the enterprise which is a resident of the other Contracting State is a corporation, such corporation is neither:

(i) a controlled foreign corporation within the meaning of section 957 of the United States Internal Revenue Code of 1954 (as it may be amended from time to time without changing the principle thereof); nor

(ii) created or organised under the laws of the first-mentioned State or of any third State or controlled, directly or indirectly, by a corporation which is a resident of any third State;

then, in determining the tax liability of the first-mentioned enterprise in the State in which it does business, such State shall not take into account the income, deductions, receipts or outgoings of a related enterprise which is a resident of the other Contracting State or of an enterprise of any third State which is related to the enterprise of the other Contracting State, except that this prohibition shall not apply where the first-mentioned enterprise is a resident of the first-mentioned Contracting State, to the extent that it owns, directly or indirectly, the capital of the related enterprise."

ARTICLE II

The following new paragraph (6A) shall be added to Article 7 (Business profits) after paragraph (6):

"(6A) The United States tax on insurance premiums paid to foreign insurers shall not be imposed on insurance or reinsurance premiums which are the receipts of a business of insurance carried on by an enterprise of the United Kingdom whether or not that business is carried on through a permanent establishment in the United States."

ARTICLE III

Paragraph (5) of Article 10 (Dividends) shall be deleted and replaced by the following:

"(5) Where a corporation which is a resident of a Contracting State (and not a resident of the other Contracting State) derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the corporation, except insofar as such dividends are paid to a resident of that other State (and where that other State is the United States, to a national of the United States) or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other State, even if the dividends paid consist wholly or partly of profits or income arising in that other State."

ARTICLE IV

Sub-paragraph (*b*) of paragraph (1) of Article 19 (Government service) shall be deleted and replaced by the following:

"(*b*) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident and a national of that State."

ARTICLE V

Paragraph (4) of Article 23 (Elimination of double taxation) shall be deleted and replaced by the following:

"(4) Notwithstanding sub-paragraph (*a*) of paragraph (1) of this Article, the amount of United Kingdom petroleum revenue tax allowable as a credit against United States tax shall be limited to the amount attributable to United Kingdom source taxable income in the following way, namely:

(*a*) The amount of United Kingdom petroleum revenue tax on income from the extraction of minerals from oil or gas wells in the United Kingdom to be allowed as a credit for a taxable year shall not exceed the amount, if any, by which the product of the maximum statutory United States tax rate applicable to a corporation for such taxable year and the amount of such income exceeds the amount of other United Kingdom tax on such income.

(*b*) The lesser of (i) the amount of United Kingdom petroleum revenue tax on income from the extraction of minerals from oil or gas wells in the United Kingdom that is not allowable as a credit under the preceding sub-paragraph, or (ii) 2 per cent of such income for the taxable year shall be deemed to be income taxes paid or accrued in the two preceding or five succeeding taxable years, to the extent not deemed paid or accrued in a prior taxable year, and shall be allowable as a credit in the year in which it is deemed paid or accrued subject to the limitation in sub-paragraph (*a*) above.

(*c*) The provisions of sub-paragraphs (*a*) and (*b*) shall apply, separately, *mutatis mutandis* (but with the deletion, in the case of (*b*), of the words "the lesser of (i)" and "or (ii) 2 per cent of such income for the taxable year"), to the amount of United Kingdom petroleum revenue tax on income from initial transportation, initial treatment and initial storage of minerals from oil or gas wells in the United Kingdom".

ARTICLE VI

The following new Article 27A (Offshore activities) shall be inserted after Article 27 (Effect on diplomatic and consular officials and domestic laws):

"ARTICLE 27A

Offshore activities

(1) Notwithstanding the provisions of Article 5 (Permanent establishment) and Article 14 (Independent personal services), a person who is a resident of a Contracting State and carries on activities in the other Contracting State in connection with the exploration or exploitation of the seabed and sub-soil and their natural resources situated in that other Contracting State shall be deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

(2) The provisions of paragraph (1) shall not apply where the activities are carried on for a period not exceeding 30 days in aggregate in any 12 month period. However, for the purpose of this paragraph, activities carried on by an enterprise related to another enterprise shall be regarded as carried on by the enterprise to which it is related if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.

(3) The provisions of Article 8 (Shipping and air transport) shall not apply to a drilling rig or any vessel the principal function of which is the performance of activities other than the transportation of goods or passengers."

ARTICLE VII

The following new paragraph (7) shall be added at the end of Article 28 (Entry into force):

"(7) Notwithstanding any provisions of the respective domestic laws of the Contracting States imposing time limits for applications for relief from tax, an application for relief under the provisions of this Convention shall have effect, and any consequential refunds of tax made, if the application is made to the competent authority concerned within three years of the end of the calendar year in which this Convention enters into force."

ARTICLE VIII

(1) This Protocol shall be ratified and the Instruments of Ratification shall be exchanged at Washington as soon as possible.

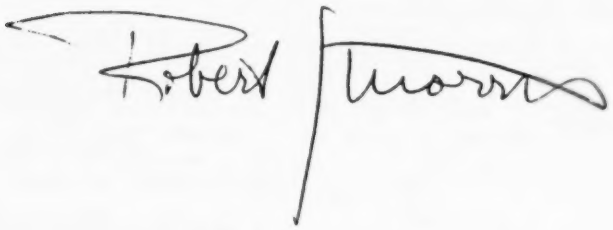
(2) This Protocol shall enter into force immediately after the expiration of 30 days following the date on which the Instruments of Ratification are exchanged and shall thereupon have effect, subject to the provisions of paragraph (3) of this Article, in accordance with Article 28 of the Convention.

(3) Notwithstanding the provisions of Article 28 (Entry into force) of the Convention, the provisions of Article 27A (Offshore activities) of the Convention (as added by Article VI of this Protocol) shall not have effect until the entry into force of this Protocol.

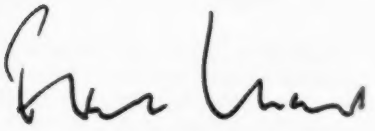
In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this third Protocol.

Done in duplicate at London this 15th day of March 1979.

For the Government of the United States of America:


[1]

For the Government of the United Kingdom of Great Britain and Northern Ireland:


[2]

[1] Robert J. Morris.
[2] Evan Luard.

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